

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ANDREA WEINSTEIN,
on behalf of herself and those similarly situated, :

Plaintiff, :

v. :

EBAY INC., et al., :

Defendants. :

Case No. 10-CV-8310 (JFK)

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DECLARATION OF ERIC S. HOCHSTADT

ERIC S. HOCHSTADT, pursuant to 28 U.S.C. § 1746, declares and states as follows:

1. I am an attorney-at-law of the State of New York and an associate with the firm Weil, Gotshal & Manges LLP. My firm represents eBay Inc., StubHub, Inc., and the New York Yankees Partnership (collectively, the “Defendants”) in the above-captioned matter. I submit this Declaration on behalf of the Defendants in support of their Motion to Dismiss Plaintiff’s Amended Class Action Complaint.

2. Attached hereto as Exhibit 1 is a true and correct copy of Plaintiff’s Amended Class Action Complaint filed in the above-captioned matter.

3. Attached hereto as Exhibit 2 is a true and correct copy of N.Y. ARTS & CULTURAL AFFAIRS LAW § 25.03 (McKinney Supp. 2011).

4. Attached hereto as Exhibit 3 is a true and correct copy of N.Y. ARTS & CULTURAL AFFAIRS LAW § 25.07 (McKinney Supp. 2011).

5. Attached hereto as Exhibit 4 is a true and correct copy of N.Y. ARTS & CULTURAL AFFAIRS LAW § 25.09 (McKinney Supp. 2011).

6. Attached hereto as Exhibit 5 is a true and correct copy of N.Y. ARTS & CULTURAL AFFAIRS LAW § 25.13 (McKinney Supp. 2011).

7. Attached hereto as Exhibit 6 is a true and correct copy of N.Y. ARTS & CULTURAL AFFAIRS LAW § 25.23 (McKinney Supp. 2011).

8. Attached hereto as Exhibit 7 is a true and correct copy of N.Y. ARTS & CULTURAL AFFAIRS LAW § 25.33 (McKinney Supp. 2011).

9. Attached hereto as Exhibit 8 is a true and correct copy of N.Y. ARTS & CULTURAL AFFAIRS LAW § 25.35 (McKinney Supp. 2011).

10. Attached hereto as Exhibit 9 is a true and correct copy of excerpted pages of the REPORT ON TICKET RESELLING AND ARTICLE 25 OF THE ARTS & CULTURAL AFFAIRS LAW (Feb. 1, 2010) issued by the Honorable Lorraine Cortés-Vázquez, Secretary of State, New York.¹ The Report is available in its entirety at http://www.betternicketing.com/articles/Ticket_Reseller_Report.pdf (last visited Jan. 25, 2011).

11. Attached hereto as Exhibit 10 is a true and correct copy of the StubHub website page listing tickets for resale to a Yankees home game, scheduled for April 14, 2011, and displaying tickets for seats located in the Grandstand Outfield, Section 426, available at <http://www.stubhub.com/new-york-yankees-tickets/yankees-vs-orioles-4-14-2011-1008209/> (last visited Jan. 26, 2011).

12. Attached hereto as Exhibit 11 is a true and correct copy of the StubHub website home page, available at <http://www.stubhub.com> (last visited Jan. 25, 2011).

13. Attached hereto as Exhibit 12 is a true and correct copy of the StubHub website page displayed before a resale ticket transaction is finalized, available at

¹ For the Court's convenience, the portions of Exhibits 9 – 16 that are cited in Defendants' Memorandum of Law are indicated by arrows and/or underlining.

https://buy.stubhub.com/checkout/checkout?logisticsMethod=1&quantity_selected=2&ticket_id=274451915#deliveryPanel (last visited Jan. 25, 2011).

14. Attached hereto as Exhibit 13 is a true and correct copy of the StubHub website's "Buyer Q and A" page, displaying the response to the question "Do the listed ticket prices differ from face value?", available at <https://www.stubhub.com/how-stubhub-works/> (last visited Jan. 25, 2011).

15. Attached hereto as Exhibit 14 is a true and correct copy of the StubHub website's "Buyer Q and A" page, displaying the response to the question "Where do these tickets come from?", available at <https://www.stubhub.com/how-stubhub-works/> (last visited Jan. 25, 2011).

16. Attached hereto as Exhibit 15 is a true and correct copy of the StubHub website's "Customer Support" page listing additional "Buyer Q and A" topics and displaying the response to the topic "Tips for smart ticket buying," available at <http://www.stubhub.com/help/?searchKeyword=Buyer Q and A> (last visited Jan. 25, 2011).

17. Attached hereto as Exhibit 16 is a true and correct copy of the StubHub website's "Customer Support" page listing additional "Buyer Q and A" topics and displaying the response to the topic "If this is your first time buying on StubHub," available at <http://www.stubhub.com/help/?searchKeyword=Buyer Q and A> (last visited Jan. 25, 2011).

18. Attached hereto as Exhibit 17 is a true and correct copy of *Ballas v. Virgin Media, Inc.*, No. 600014-2007, 2007 WL 4532509 (N.Y. Sup. Ct. Dec. 6, 2007).

19. Attached hereto as Exhibit 18 is a true and correct copy of *Chiste v. Hotels.com LP*, No. 08 Civ. 10676 (CM), 2010 WL 4630317 (S.D.N.Y. Nov. 15, 2010).

20. Attached hereto as Exhibit 19 is a true and correct copy of *Gibson v. Craigslist, Inc.*, No. 08 Civ. 7735 (RMB), 2009 WL 1704355 (S.D.N.Y. June 15, 2009).

21. Attached hereto as Exhibit 20 is a true and correct copy of *In re Fosamax Prod. Liab. Litig.*, No. 09 Civ. 1412 (JFK), 2010 WL 1654156 (S.D.N.Y. Apr. 9, 2010).

22. Attached hereto as Exhibit 21 is a true and correct copy of *In re Merrill Lynch & Co. Research Reports Sec. Litig.*, Nos. 02 MDL 1484, 02 Civ. 9690 (JFK), 2008 WL 2324111 (S.D.N.Y. June 4, 2008).

23. Attached hereto as Exhibit 22 is a true and correct copy of *Small v. Arch Capital Group, Ltd.*, No. 03 Civ. 5604 (JFK), 2005 WL 696903 (S.D.N.Y. Mar. 24, 2005).

24. Attached hereto as Exhibit 23 is a true and correct copy of *Small v. Arch Capital Group, Ltd.*, No. 03 Civ. 5604 (JFK), 2005 WL 2584158 (S.D.N.Y. Oct. 12, 2005).

25. Attached hereto as Exhibit 24 is a true and correct copy of *Sotheby's, Inc. v. Minor*, No. 08 Civ. 7694 (BSJ), 2009 WL 3444887 (S.D.N.Y. Oct. 26, 2009).

26. I declare under penalty of perjury that the foregoing is true and correct.

Dated: January 31, 2011
New York, New York



Eric S. Hochstadt